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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**Case No. 2:18-cv-00054-SU**

**GREATER HELLS CANYON  
COUNCIL, an Oregon nonprofit  
corporation,**

**DEFENDANTS' NOTICE**

Plaintiff,

v.

**KRIS STEIN, District Ranger for  
the HCNRA, Wallowa-Whitman  
National Forest, in her official  
capacity, and UNITED STATES  
FOREST SERVICE, an agency of  
the United States Department of  
Agriculture,**

Defendants.

Defendants provide notice of the U.S. Forest Service's November 29, 2018 report to the U.S. Fish and Wildlife Service on implementation of the Lower Imnaha Rangeland Analysis ("LIRA") project. Defendants provide this report in further response to this Court's interest in catchfly-related information gained in implementation of the LIRA project, as this Court expressed during the November 13, 2018 hearing. Defendants do not file the report as a supplement to the administrative record.

Dated this 30<sup>th</sup> day of November, 2018.

Respectfully submitted,

BILLY J. WILLIAMS  
United States Attorney  
District of Oregon

/s/ Sean E. Martin  
SEAN E. MARTIN  
Assistant United States Attorney



United States  
Department of  
Agriculture

Forest  
Service

Wallowa-Whitman National Forest

1550 Dewey Avenue, Suite A  
Baker City, OR 97814

**File Code:** 2670  
**Date:** November 29, 2018

Marissa Meyer  
Supervisor, La Grande Field Office  
U. S. Fish and Wildlife Service  
3502 Highway 30  
La Grande, OR 97850

Dear Marissa,

Enclosed is a 2018 end-of-year report addressing grazing and monitoring activities on the Lone Pine, Rhodes Creek and Toomey Allotments in the Hells Canyon National Recreation Area, administered by the Wallowa-Whitman National Forest. This report was prepared in response to a conservation recommendation provided in the biological opinion concerning grazing and Spalding's catchfly within these allotments: **USFWS BO No. 01EOFW00-2012-F-0120**. This biological opinion was prepared in response to the biological assessment submitted by the Forest Service for the Lower Imnaha Rangeland Analysis (LIRA) project. The agency's Record of Decision for this project was signed in 2015 and implementation is ongoing.

The enclosed report includes, in addition to summary of grazing activities and implementation monitoring, new information resulting from more detailed 2018 site review of six of the nine LIRA pastures where the catchfly is known to occur. I am heartened to report that in 2018 we documented more individual plants and found them to be distributed across more acres than previously known. In the Toomey allotment, more than 700 new plants were documented, and more than 350 plants were documented in two allotments within the Rhodes Creek allotment.

If you have any questions regarding this project please contact Joe Vacirca, Aquatics Program Manager, at 541-523-1265.

Sincerely,

THOMAS MONTOYA  
Forest Supervisor

Enclosure - "Rhodes Creek, Toomey and Lone Pine Allotments 2018 End of Year Report"

cc: Kris Stein, Larry Sandoval, Joe Vacirca



**Rhodes Creek, Toomey and Lone Pine Allotments 2018 End of Year Report****USFWS BO No: 01EOFW00-2012-F-0120**Wallowa-Whitman National Forest  
Hells Canyon National Recreation Area

November 2018

This report is submitted as an annual report of grazing activity on the Lone Pine, Rhodes Creek and Toomey Allotments. The grazing and monitoring activities included are from November 2017 to June 2018. This report is a conservation recommendation from the biological opinion received for these allotments concerning grazing and catchfly, USFWS BO No: 01EOFW00-2012-F-0120.

**Table 1.** Spalding's Catchfly inventory results

Allotment	Pastures with Catchfly	Pastures with Catchfly inventoried this year	Number catchfly counted in pasture this year	Change from previous count
Cow Creek*	0	0	0	0
Rhodes Creek	5	2	198	+147
Toomey	3	3	1190	+701
Lone Pine	1	0	Not inventoried this year	No data
Combined	9	5	1388	848

**Table 2.** Nov 2017-May 2018 Permitted Livestock Numbers and Season

Allotment	#Pastures	Class	Term Head Months	Head Months	Season of Use	estimated number cow/calf pairs
Cow Creek*	4	Cow/calf	1,255		11/1-05/15	196
Rhodes Creek	16	Cow/Calf Horse	4495 97		11/1-05/15 11/1-05/15	702 15
Toomey	9	Cow/calf	1,000		11/1-05/15	156
Lone Pine	4	Cow/calf Horse/Mule		1,800 33	12/1-05/31 11/1-05/15	150 NPT 150 FS

\* Cow Creek Allotment does not have Spalding Catchfly.

**Table 3.** Authorized and Billed for this Season

Allotment	FS Numbers	Class	Season of Use	Head Months
Cow Creek*	294	Cow/calf	2/1-5/15	1,031
Rhodes Creek	660 15	Cow/Calf Horse	11/10-5/15 11/1-5/15	3,960 97
Toomey	167	Cow/calf	12/1-05/15	918
Lone Pine	309	Cow/calf Horse/Mule	3/1-5/31	773

**Table 4.** 2018 Implementation Monitoring results

Allotment	Pasture/Key Area	Key area Habitat	Date	Stubble Ht inches	Stubble Ht Standard	%Utilization	Standards met?
Rhodes Creek	K6A East bench Lightning Creek	Riparian	24Apr18	6.0" ocular estimate	4.0 inches at green line	NA	Y
Rhodes Creek	East Bench Lightning	Upland	24Apr18	8.0 inches	4.0 inches PSSP6/FEID 35% utilization	25	Y
Toomey	K1 Johnson Canyon	upland	31Jan18	7.0 inches	4.0 inches PSSP6/FEID 35% utilization	25	Y
Toomey	K4 Spring Gulch	upland	31Jan18	7.0 inches	4.0 inches PSSP6/FEID 35% utilization	25	Y
Toomey	K7 Lower Spain Saddle	upland	31Jan18	9.0 inches	4.0 inches PSSP6 35% utilization	33	Y
Toomey	K9 Johnson Canyon	upland	31Jan18	7.0 inches	4.0 inches PSSP6 35% utilization	32	Y

**Table 5:** Utilization Standards

The WWNF utilization levels to meet Forest Plan (PACFISH) standard and guideline addressing riparian habitat and condition

Riparian PFC Assessment	Grass/Grass-like	Sedges and rush	Kentucky bluegrass terrace	Woody Vegetation
Proper Functioning Condition	4 inch stubble remains	3 inch stubble remains	2 inch stubble remains	30%
Functioning at Risk (Static or upward trend) Not Functioning	6 inch stubble remains	4 inch stubble remains	4 inch stubble remains	30%

## Forest Plan allowable utilization standards

<b>Range Condition</b>	<b>Riparian</b>	<b>Shrubs</b>	<b>Upland</b>		<b>Shrubs</b>	
	<b>Grass/Grass-like species</b>		<b>Grass/Grass-like</b>			
	<b>Forested</b>		<b>grassland</b>			
<b>Satisfactory</b>	45%	40%	45%	55%*	40%	
<b>Unsatisfactory</b>	0-35%	30%	35%	35%	30%	

\*The maximum utilization for pastures in satisfactory condition with Spalding's catchfly is 50%.

**Table 6:** Soil Monitoring

<b>ALLOTMENT</b>	<b>PASTURE</b>	<b>Monitored</b>	<b>Year Established</b>	<b>Next planned monitoring</b>
<b>Toomey</b>	Big Pine	Odd Years	2018	2019
	Johnson Canyon	Odd Years	2017	2019
	Lower Spain Saddle	Even Years	2018	2020
	Spring Creek	Odd Years	2017	2019
<b>Rhodes Creek</b>	Bull Pasture	Even Years	2018	2020
	East Lightning	Odd Years	2018	2019
	West Lightning	Odd Years	2017	2019
	North Roy	Even Years	2018	2020
	South Roy	Even Years	2018	2020
<b>Lone Pine</b>	Big Canyon	Even Years	2018	2020

In the spring of 2017 and 2018 soil monitoring plots were established on Toomey, Rhodes Creek, and Lone Pine allotments. Ten sites have been installed. The plots are prescribed to be read every other year with half the plots being read each year. The purpose of the plots is to observe trends of catchfly habitat and soil conditions on pastures identified in the Lower Imnaha Range Analysis EIS to have catchfly and concern for catchfly habitat. The data collected will inform percent terracettes, ground cover, biological soil crust, basal vegetation, bare ground, compaction, shearing-soil loss or erosion due to walking on the terracettes.

**Table 7.** Pastures with Catchfly present (LIRA FEIS Chapter 3, page 139, Table 25)

<b>Allotment</b>	<b>Pasture</b>
Cow Creek	None
Rhodes Creek	North Roy
	South Roy
	Bull Pasture
	East Bench Lightning
	West Bench Lightning
Toomey	Spring Gulch
	Lower Spain Saddle
	Big Pine
	Johnson Canyon
Lone Pine	Big Canyon

The four allotments (Cow Creek, Lone Pine, Rhodes Creek and Toomey) are grazed as 1 unit. 9 pastures are to be rested each 3 or 4 years. Two pastures are to be rested every other year. The Big Pine pasture is described as required for rest and deferment. Of these two actions rest includes deferment, therefore the Big Pine pasture will be rested every other year. The deferment for spring 2017 was the East and West Bench Lightning Pastures of Rhodes Creek Allotment. In 2018, Johnson Canyon, Big Pine, Lower Spain Saddle, Spring Creek, North Roy and South Roy pastures were deferred in the spring.

**Table 8.** Pasture rest and deferment schedule

Allotment	Pasture	Deferment** Schedule	Rest* Schedule
<b>Toomey</b>	Big Pine	Deferred 2018	Rest 2018-2019 planned
	Upper Spain Saddle	NA	Rest 2018-2019 planned
	Johnson Canyon	Deferred 2018	NA
	Lower Spain Saddle	Deferred 2018	NA
	Spring Creek	Deferred 2018	NA
<b>Rhodes Creek</b>	Bull Pasture	Deferred 2019-planned	NA
	East Lightning	Deferred 2017	NA
	West Lightning	Deferred 2017	NA
	North Roy	Deferred 2018	NA
	South Roy	Deferred 2018	NA
<b>Lone Pine</b>	Big Canyon	Deferred 2019-planned	NA

\*Rest is for the entire grazing season and includes deferment

\*\* Deferment for this action is when soils are thawing or subsequently saturated, and when plants are growing (generally March to June, spring). The intent is to reduce impact, especially soil displacement in Spalding's catchfly habitat, from cattle traveling on wet soil on steep slopes.

### **Summary of Spalding's Catchfly inventory work that occurred during the 2018 field season**

The original rare plant inventories for this LIRA project area were intended and designed to maximize the detection of Spalding's Catchfly locations across the project area/landscape with the resources available to accomplish this task. This effort spanned several years as reported in the LIRA project's Biological Evaluation and Biological Assessment. The observers were provided management's intent to use their professional judgement to prioritize their time toward finding Spalding' Catchfly locations, over the time for detailed site documentation in order to locate as many locations as possible. Site revisits to record detailed plant counts and site (ecological) attributes are a normal part of the process. It was and is expected that follow-up site visits would improve our understanding of the site's extent and amount of occupation. This expectation was also documented in the Biological Evaluation and Biological Assessment. Also, it is important to remember that as a perennial plant, most plants at a site produce above-ground structures every year – but, each year some plants will remain below ground in a dormant state

(dormancy levels are documented in literature and exhibit a wide range but usually don't exceed 30% of the individuals per season). Therefore "exact" counts of plant numbers are challenging and time consuming and make monitoring exceptionally difficult, especially in the complex topography of the Imnaha canyon. Monitoring and/or site census work needs to be done over a time period to establish a trend, and trend assessments are usually applied at a population level not at the patch size or site. This plant's life-history attributes are why land managers need to also rely on habitat conditions for informing management decisions over the near and long term, as trend data can take up to 20 years or so to discern.

The importance of conducting site revisits and documentation may be summarized in a few concept statements:

- Understanding the numbers and distribution of the species on a landscape further informs management practitioners about the likely ecological needs of the species,
- Understanding the numbers and distribution (proximity to each other) of the species on a landscape helps us toward understanding the potential of the species' ability to reproduce,
- Understanding the numbers and distribution of the species on a landscape helps inform and improve land management decisions, and adaptation of prior decisions,
- Tracking and understanding the numbers and distribution of the species on a landscape help gauge progress toward meeting the long-time, broad objectives set out in the species' Recovery Plan and the Forest Plan.

During the 2018 field season efforts to improve Spalding's Catchfly site documentation were conducted in three of the four allotments in the LIRA project area (i.e., those three allotments where catchfly have been documented), and six of the nine pastures with known occurrences were revisited. The focus of these efforts was to improve the recording of the number of plants in an area and the area they occupied as well as make brief observations of habitat conditions. All of the pastures in the Toomey allotment containing Spalding's Catchfly were revisited. One pasture in the Lone Pine allotment was revisited and two key pastures in the Lightning Creek portion of the Rhodes allotment were revisited. Specific site results are tabulated in the tables below. In general more plants were located in each of the pastures than was previously recorded. In some locations both the number of plants detected and the area they occupied increased. The adjustments to the acres mapped as occupied habitat in the Forest Service data base are still in the process of being devised. With these results it is anticipated that a number of sites will be merged into larger mapped polygons for the purposes of data tracking into the future. It is very important to understand that the increase in the known numbers at the areas re-recorded does not constitute a trend one way or the other. Instead, it reflects the effort of more focused and detailed field work around known locations. From extensive monitoring efforts elsewhere on the Forest it is known that the number of plants that are detected can vary quite a lot from season to season because of genetic and environmental factors. However this data is very useful in discussing decisions around the identification of possible Key Conservation Area(s) and future monitoring efforts. It is also helpful for understanding how the patches of plants may be able to interact (through pollinators and seed dispersers) with each other. Essentially, the more we find

the more resilient we believe the population is, and that improves the management decision space we can utilize.

#### *Lone Pine Allotment*

In the Lone Pine allotment two sites were revisited twice during the field season specifically to look at site conditions. At one site on Cactus Mountain a soil disturbance monitoring site was established at a representative location. The site was selected based on it appearing to be representative of the use the Spalding's Catchfly site receives from cattle under the current management plan. More explanation of the soil monitoring sites can be found elsewhere in this report. At this site plant counts were not completed but observations were made that the areas did not exhibit signs of cattle use at more than an incidental level. The same observations were made at a smaller Catchfly site north of Cactus Mountain.

#### *Toomey Allotment*

In the Toomey allotment 13 of 14 locations were revisited across the 3 pastures containing this species. The results are in the table below. The total number of plants detected across all the sites increased from 489 to 1190. At some sites the documented area occupied increased or may be merged with another site, and at other sites the same area was found to be occupied but the number of plants counted changed. This data is still being further processed.

**Table 9:** Results of 2018 Spalding's Catchfly inventory in Toomey Allotment

Pasture	Site ID Number	2018 plant count	Initial plant count	2018 area of occupied habitat	Initial area of occupied habitat
Lower Spain Saddle	0616042343	15	50		
Lower Spain Saddle	0616042349	211	100		
Lower Spain Saddle	0616042344	1	15		
Lower Spain Saddle	0616042350	6	5		
Johnsen Canyon	0616042328	268	50*		
Johnsen Canyon	0616042340	285	15		
Johnsen Canyon	0616042342	189	50*		
Johnsen Canyon	0616042346	88	90		
Johnsen Canyon	0616042341	18	40		
Johnsen Canyon	0616042348	67	50		
Spring Gulch	0616041266	6	4		
Spring Gulch	0616041267	Not relocated	3		
Spring Gulch	0616041268	1	9		
Spring Gulch	0616041265	17	8		
<b>subtotals</b>		<b>1190</b>	<b>489</b>		

\* The column in the data-base for the plant count figure and confidence level was not completed so this number was extrapolated from site notes and other observational experience.

### *Rhodes Creek Allotment*

In the Rhodes allotment, two pastures in the Lightning Creek canyon containing Spalding's Catchfly were revisited. Those pastures were the Bull pasture and the West Lightning Bench pastures. The plants in this vicinity span both private and public land ownership within the allotment. In general the results are similar to what was found in the Toomey allotment pastures. Overall the number of plants located across all these sites increased to 456 compared to the 95 initially discovered. There is going to be a change in how these sites are mapped as many of the plants detected with this effort were in-between the spots identified last time. The conclusions discussed above apply also apply here. We are developing a strategy and schedule to revisit the rest of the known Spalding's Catchfly locations in this allotment as the vast area this covers is a significant logistical challenge.

**Table 10:** Results of 2018 Spalding's Catchfly inventory in Rhodes Creek Allotment

Pasture	Site ID Number	2018 plant count	Initial plant count	2018 area of occupied habitat	Initial area of occupied habitat
<b>Bull Pasture</b>					
(sites 1290 & 1289 now run together and will be combined into one site in the future)	0616041290	6	1		
	0616041289	10	14		
	0616041284	1	2		
	0616041285	58	15		
	0616041292	8	8		
	0616041291	4	4		
<b>subtotals</b>		258	44		
<b>West Lightning Bench</b>					
Sites 1294, 1295, 1296, 1297 all run together now and will be combined into one site	0616041294	39	5		
	0616041295	38	4		
	0616041296	38	4		
	0616041297	35	5		
<b>Sites 1243, 1244, 1245, 1246, 1247 all run together</b>	0616041243	8	8		

<b>now and will be combined into one site</b>					
	0616041244	1	1		
	0616041245	28	13		
	0616041246	1	3		
	0616041247	10	8		
<b>subtotals</b>		<b>198</b>	<b>51</b>		